

CERTAINE
PROPOSALS
IN ORDER
To a new Modelling of the
L A W E S,
A N D
Law-Proceedings,

For a more Speedy, Cheap, and E-
quall Distribution of JUSTICE through-
out the COMMON-WEALTH.

Amongst which, besides others, is briefly Ar-
gued the great inconvenience which arises,

- 1. From the distinction of Courts of Common Law and Chancery.
- 2. By Extemporay Verdicts, Orders, and Decrees.
- 3. By the Judges, Juries, and Peiurers not being lyable to
make full Restitution unto such as are injured by their Per-
jury, or Erroneous Judgements ; together with their Re-
medies.

AS ALSO:

Certaine Considerations for the Avancement of Trade and
Navigation. Humbly propounded unto the Supreme
Authority the Parliament of the Common-
wealth of ENGLAND: By

Henry Robinson.

LONDON: Printed by M. Simmons in Aldersgate-
street, 1653.

Call #
3/7/21

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TO
 The Supream Authority of this
 Nation, the Parliament of the Common-
 wealth of E N G L A N D.

Right Honourable,



Onbteſſe it is not unknown to your Ho-
 nours with what various expeſtations
 the Nations round about, & even the
 people amongſt us, have fixed their
 eyes upon you, whom Providence hath
 ſet upon the English Throne. Cert-
 ainiely it was farre enough from your
 owne thoughts within theſe few
 moneths, and therefore you cannot be ſaid to have been am-
 bitioneſt of it, much leſſe to have long coveteſt it. To run di-
 viſion of mens diſſerent opinions touching the Call your Ho-
 nours had therunto, it cannot be expeſted, it ſhould not be
 controverteſt, ſince nothing is exempt theſe from, and
 not a few believe all knowledge to be ſcepticall. But this I
 am ſure of, that whereaſt all Powers and Gouerneurs hi-
 therto diſt ſo much ſeeke theſeelves, as that either theirown
 or their Predeceſſors ſwords made way for them, your Call
 and admittance hath been ſo peaceably, as doth clearly de-
 menſtrate the people diſt not only ſtand in need of you, but
 that you are obligeſt by all ties both diſiine and humaſe, to
 relieve them in this great extremitie of theiirs, according
 to your utmoſt abilities, and the power which Providence

shall invest you withall.

These Nations have beene reckoning or accounting with their Governours, and such as they sometimes honoured with authority over them for about these dozen yeares ; one while advancing and setting up this person and party, and soon after pulling them down again, and at last routing them all, their Corporation and Charter, by which through the prevalency of a crasse depraved major party, they began according to their Predecessors footsteps, to pretend they might by the Prerogative thereof give us Stones instead of bread, and Serpents instead of fish, Mat. 7. Go on wasting of our blood and treasure, without securing us in the liberty either of our own consciences, persons, or Estates : and whilst we thus bemoaned our sadde condition, sighing, groaning, and crying out, who will doe us good, in rescuing us from selfe-seeking Partisans, your Honourrs have set your selves in the gap, and undertaken our deliverance.

Goe on therefore with the same courage and integrity you have begun : and though your Predecessors left you much worke to doe, yet be not disheartned therewith, Supream Authority was never attained too with so much ease before, and cannot portend lesse then greatest Happinesse unto this Nation by improving the same aright, or greatest infelicity unto your selves, if you should forgoe the opportunity which is put into your hands. We say nothing is difficult unto a willing mind, much lesse to such as have both will and power, least of all when both Heaven and Earth concur in making smooth the wayes you have to walke in for working out deliverance unto these Nations. Wherefore as you have begun, goe on in the feare of God, and love to good men, let nothing amuse or startle you ; there is no hazard or danger in doing good, and good is not so hardly distinguisable from evill, right from wrong, Mine from Thine, as Moun-
tebanke

tebanke Statists, and Lawyers would make the world believe.

Please then to redeem the time your Predecessors have lost, and begin to gratifie us first with what we most stand in need of : Examine our Civill Lawes and Disciplin^e, mend, or make them such as may become suitable, wholesome, and thriving to us in time of peace, as our Martiall Lawes and Discipline were during the late Warrs. To have no written Lawes may be thought to be a condition without rule, or lawlesse ; and yet in whose heart is not the Eternall morall Law engraven'd? might not a people be better governed then this Nation hath been hitherto, without any other rule or standing Law then of not doing that unto any man, which a man would not have done unto himselfe? but because the written Law either out-reaches, or doth not reach most cases, it were better to have no written Law, no Common Law at all, then not to have a Chancery to qualifie it, as to contract or stretch it, according to the righteousness of all circumstances ; but to be subject to the extreamities of them both singly, to be first rack'd, and made weary of our life and cause by the dull senselesnesse of one of them, the Common Law ; and after that to be unrackt, rackt backe or over againe by the pleasure, suggestion, or nothingnesse of the other, the Court of Chancery, will much call the Judgment of this Nation in question, to be out-witted by a generation of Lawyers, and their hangers on, in being at charge to maintaine them at one fifth part of all our Revenues yearly, for tormenting us, and continuing our lives and all we have at uncertainty, and their own mercy.

If we do but consider a little, wee shall easily finde that such a Court as we meane by a Common Law Court, must necessarily be so litterall, so bestial, as that it must not yeld a haire upon any occasion; as well Gods glory, as good peoples welfare

welfare must be sacrificed to it ; nothing but sumnum jus, rigid right, or right rigidness, which is summa injuria, extream injuriousnesse, can be expected from it ; only a knave or godlesse person who seekes no other happinesse, but his owne Revenge ; nor hath other rule or conscience then his owne lust, will easily fence himselfe against the litteralnesse thereof, and expose the Innocent as a prey unto it.

On the other side, that which we call a Court of Chancery, is such an absolute Prerogative Royall, as that every knave, oppressor, or revengefull person is able, upon no ground or cause at all, but merely upon suggestion to commence and continue a suite, from one generation to another, with such plausibility, according to the printed Orders of the Court, and the Courts own contrary practice, as that to heare it argued, a man would not be able to guesse how it will likely be finally determined, about 20. or 30. yeares hence, unlesse bee could tell which side were like to have most money to fee most Counsellors, and what Counsellors were then so feid : But if you will resolve to dash both Courts in pieces one against the other, and erect one out of them both, endowing it with a power of Equity to Judge all people and causes in a middle way equally and indifferently, as neer the Letter of the standing Law as each respective case can be brought, all circumstances considered according to principles of righteousness and reason, and so cashier those Laws, or legall cheates of Fines and Recoveries, Statutes, Statutes-Saint, Recognizances, Leases of Ej. & C. Mortgages, Penall Bonds, difference of Tenures, difference of Actions, Writs of Error, Outlawries, Bills of Middlesex, and such other Law-legerdemain, the great mystery of the Lawyers will be more common, and farre more easie then it is now, to Cook a dinner for their pallate.

But

I beseech your Honours to reflect a little upon what I say in this particular: Our men of Law avouch their Mystery to be the most abstruse and difficult, and consequently to require the greatest art and study to be exact and profound therein of any in the world; whereas above 1600 yeares agoe the Apostle Paul reproaches the Corinthians, 1 Cor. 6. 5. &c. in that there was not a wise man amongst them that might judge between his Brethren, and not suffer them to goe to Law before the Heathen: and what kinde of men were these that Paul there censures? surely much like the Coblers, Button-makers, Taylors, Weavers, with all manner of Handicrafts-men and Labourers, the inferior, poor, illiterate, despised of this Nation, who in the latter times of the world, we have observed to be zealous of the Honour of God, inquisitive after Truth, and conscientious towards their Brethren; and yet Paul thought they might, nay ought to have been wise enough to judge between their Brethren: surely Paul and our men of Law were of a different opinion, and I must crave leave to add, that if there had been amongst the Gentlemen of the Law-faculty, the like zeale to God-ward, or compassion towards their Brethren, they could never have so long endured to be present at the Bar, and heare so many conscientious innocent people lye under oppression for want of English Lawes to relieve them, nor so many righteous Causes to be formally arraigned, condemned, and made Law-martyrs, without compassing a redresse for us before this time.

If the written Law, common Law, custome, be in the Cause in question, it will be as clear as the Sun, it will require no more then first to read the case, then the written Law, and the Judgement will follow as undeniable as the conclusion doth the premises of a rightly formed syllogisme.

Thus easie and clear would every Cause (to be decided by

by common Law) be, if it were taken in time, before it grew wild by the long run, and leisurely opened, and truly stated.

But if a Cause do not appeare thus clear to be determined at common law, then forthwith the equitable part of the Law takes thought of it, and the Judge having both of them to his guide, hath nothing else but this to consider of: That since ther was no written Law ^{whch} came home to the point, what a reasonable & understanding man ought to have don in such a case, all circumstances considered: and 2. how far forth the party complained of, hath acted by the rule of such reason and understanding (which may be truly said to be the common law of Nature & Nations, not of England onely) and may be presumed to have done, as he would be done unto in such a case, and to give Judgement accordingly.

Now whether upon such like notions, and further enquiry, this, so much pretended dark Mystery of the Lawyers, may not become more practicable and easie then Cookery, as I said, which is common to every household, let those Gentlemen themselves, and the most ingenious Professors amongst the rest, when they have better leisure, give their opinion, towards the undeceiving, and so enfranchising of the People.

I would not be thought notwithstanding to deny that these Gentlemen have not a kinde of lip-learning, or artifice, especially of words and termes, beyond men of other Trades and Callings, wherewith their Customers are either enchaunted, or led into by-paths, beyond their owne knowledge, and there left and lost both they and their estates. And how far forth such art and cunning is for their owne credit, and our good, let themselves be judges also.

But

But of all learning certainly that of the Lawyers is the most vaine, not onely unnecessary but mischievous, destructive to a Common-wealth: and I have no little wondred to heare them stiled in every Order, Councillours learned in the Law, but that it is by the Clerks and Registers of the same feather, and for their owne interest sake; whereas their learning is but Law-cheating, jugling, pocket-picking, which the tyranny of our former Governours (fearing otherwise that they shold not be thought to have Law as well as Gospel to uphold them in their oppression, and keeping us in ignorance) suffered us not to speak against, or get redressed. I am sorry for my own Countrey sake to make this Observation of it: That there are not such cunning famous pick-pockets, cheaters, thievers, in any part of the World, as in this Island of England. And as this Mystery of Law-cheating could not have been brought to passe, nor continued by its Abettors, without a kind of gracelesse wit and ingenuity; so did not the rest of the Nation want wit enough to counter-worke and rout them, but that the people of this Nation have enjoyed lesse civil liberties then other Nations generally throughout the Papacy, and where its supremacy domineers; though they pen and keep them up close as to their Religion, yet in civill matters they have had much more freedome and liberty of propounding for or against what they saw concuted to or against Common-weale; and by that meanes had

I hope, and earnestly request such Gentlemen of this faculty, to whom I have any manner of Relation, and such especially to whom I acknowledge many obligations (and who I conceive mean no wors then other men who finde themselves put, or settled by their Ancestors in a way or Calling which they thinke themselves little obliged to question or suspect) that they will not be offended at this language; since all Courtship, fair means, and long-suffering hath prevailed nothing with them, though sundry of the most eminent amongst them, professed the necessity of redresse, and seriously engaged to see it done severall years since.

the advantage to become sooner and more civilized, and to partake of more civill accomodations then England hath yet been happy in.

And because you have herein to deale with a numerous subtle party, the Anakim's and Goliah's of the Nation, against whom every individuall true English man, even out of self preservation is obliged to come in to your assistance, I, though amongst the least of them, yet being no lesse willing then engaged to appear faithfull in my station, doe humbly tender these ensuing Proposals.

Wherein though I speake often of depositions, examinations, and Certificates taken upon Oath, yet it is onely by reason of the usuall practice thereof at present. My opinion being that Oaths should not be made so common, but that all men should nevertheless be proceeded against for whatsoeuer they had damnified any man for false Witnessing, or crertifying against him, though it were not upon Oath.

Scarce a motion at Common Law, or in Chancery, but if we offer it not, the Judge cryes out, Who makes Oath thereof. At Sessions and at Assizes, all up and downe the land, nothing but Oathing of it, swearing and forswearing, though not so often yet as publicke, and as unpunished, and the parties as remediless, though perhaps most Causes are lost by the perjurie of one or other. At Custome-house and Excise Office, nothing to be done without an Oath. Ob the Land doubtlesse suffers, and knows it not, by reason of Oaths, and so much the more have we to answer for, in that we make a meer formality thereof. First we make the people swear whether they will or no, and when that's done, we rest not therupon, but cast about how to make them appeare forsworn, and when that's found out, we punish them not at all for the most part, and never proportionable to their transgression: But how easily might this land be free from these

these great scandals and offences, and that with much civil ease and advantage, both unto the Governours and People. The chiefe use, I meane abuse, of Oaths, is as afore I have said, in our Courts of Justice, and about receipt of the Common-wealths duties of Customre, Excise, and Taxes througout the Nation. Upon all which occasions it is Propounded,

First, That all Evidence given in any Court of Justice, be either by the persons themselves present in Court, and that in such case to be registered, or else by way of Examinations taken upon Interrogatories, or Certificate to be signed by the parties Examined, or certifying before a Judg, Justice of Peace, or other Officer appointed in that behalfe, who may attest the said subscription, and if any person doe testifie or certifie any thing untrue, to the prejudice of his Neighbour, whether in person, goods, or name, let him be lyable to satisfie all damages and charges whatsoever, unto the utmost, and be punished corporally, and worke it out, if he have not wherewithall to discharge it otherwise.

Secondly, The securing of the Common-wealths duties without thus Oathing of it, and tormenting of the people is as easily compassed. The late Parliament by severall Acts and Ordinances, ordered them to be paid, and particularly that of the Excise, according to such rules and rates as are thereby limited, imposing a forfeiture of double the value of the Goods of the Excise whereof the Common-wealth shold at any time be defrauded: half this penalty had been sufficient if the said Acts and Ordinances had not imposed upon the people greater trouble and vexation then was necessary for securing of the duty, or just for the people to be exposed to about payment of it, which the grand Commissioners and their Officers might with so much more ease and comfort to themselves, have executed.

Wherefore for such duties as must necessarily be continued, whether of Custome, Excise, or otherwise, when the Rates are once agreed upon, and ordered to be paid and received with as little trouble and vexation as is consistent with security of the duty, the bare forfeiture of the Goods offending will be penalty sufficient, being restitution of about twenty for one upon most Comodities, one halfe to the Common-wealth, and the other halfe to the Informer: and who but a mad man will adventure ten or twenty to one, if the Orders for preventing frauds be but wisely contrived, and diligently and faithfully executed. Secondly, as to the Orders, that they be directed especially to secure the duty at the fournaise head, whilst the Comodities are in few hands, and easier to be looked after, as the Importers, and Exporters for the Customes, Smelters of Lead, Tinners, Planters, and Grovers of all Native Comodities, Makers and Importers of all manner of Merchandize and Manufactures within the Land, lyable to the duty of Excise; and if these be but well taken care of, all the rest of the Nation, perhaps fifty or a hundred for one would be free from any manner of trouble, or vexation, which now every person throughout the Nation, by the letter of the Law, is subject to, if he buy, sell, or receive into his House but 3 s. worth of any Comodities whatsoever:

The Excise then may be made payable once a quarter in the next Market Towne where the parties paying it reside, upon forfeiture of the goods, or full value thereof, the Excise whereof was not paid accordingly, and for the easier discovery of such fraud it is propounded.

1. That all persons who are obliged to pay Custome or Excise, or that buy of or sell to such person or persons as are obliged to pay the same, may be bound to keepe Books of Accompt as carefull and understanding Merchants and others

thers ought to doe, wherein they may be required upon a penalty, farrly and truly to enter all and every such parcell or pareolls of goods amounting to 20. s. and upwards, specifying the prices at which, and the time when, with the parties names to, or of whom such goods were bought or sold; and being required upon like penalty to produce their Bookes upon all occasions of cleering or discovering all such persons as shall happen to be questioned about payment of such duties.

2. That whosoever upon such occasion shall be found to keep false Bookes, be understood and taken as a person that hath deceived the Common-wealth and his Neighbour, and proceeded against as a Perjuror, & made satisfie what the Common-wealth or his Neighbour had, or must suffer in appearance by this deceitfulness.

Now the keeping of Books or Accompts as discreet Merchants and other Traders doe, though to some it may seem a slight matter, and therefore the lesse necessary to be imposed upon all Traders, is yet of so great concernment as that without it such Traders themselves, cannot understand their owne Estates, nor whether they be in a thriving or declining condition, and consequently not know whether they get or loose by that Commodity, or whether at the yeares end they ought to enlarge or contract themselves; but goe on blind-fold untill they runne quite out of their Estates, to the undoing of themselves, and all that are engag'd with them. But if it be granted to be a trouble to keepe Bookes of Accompts of what they buy or sell, and therefore ought not to be imposed upon a free people. It is answered, that it saves and prevents them & hundreds of others the trouble and vexation of being questioned in other occasions, which is not only a more common good, but to them a more peculiar advantage if they knew how to make a right jndg-
ment:

ment thereof: Besides, this exact keeping of Accompts is a kind of Record of all their dealings, which, who soever are partners with them may have recourse to, and see what benefit or losse accrues by such trading, and at least be sure that they fare as well as he that hath the managing of the Trade, and according to the Covenants between them, and from hence it happens, that for the most part all Noble men, Gentlemen, and others, as they are distinguished in Italy, and the Low Countries (two industrious and ingenious Nations, and such as we need not be ashamed of, to take example by in businesse of this nature) that are populous. When they have money by, do willingly adventure it with Merchants and Shop-keepers, and goe partners or sharers in their dealings for all parts of the world, to the much enriching of those Countries; whereas here in England, if a man put in a summe of money in stocke with a Merchant, Shop-keeper, or Grazier, or other dealer, it is twenty to one, but such Adventurer shall not only loose his money, but never have good account how it came to be consumed and wasted, because such persons who had the managing of the businesse kept no exact account of their dealings, for such Adventurer to have recourse unto, and see how his adventure thrived from time to time, and so contribute his advice therein as occasion and the nature thereof might have required.

I purposely forbear to alledge any reasons for this or that Proposall, or to preesse the necessity of any of them so farre as I justly might, because I know you have so little leisure to peruse them, and believe that the Lawes with the present Proceedings are become so vexatious unto this Nation generally, as that you cannot choose but behold the people to be weary of them, and resolved not to endure them longer, but rather choose to make tryall of any other then

then that the same should be still continued: But withall do not doubt but that the rationality, and demonstrablenesse of most of these Proposalls will appeare so cleare unto your Honours, as will not only stirre up a resolution in you, but will keep you mindfull, untill you have new modelled, if not quite new made them, as you shall see cause for.

The next generall which requires your Honours speedy assistance, may be the securing or enriching of this Nation; or both in one, and that consists in trading; for a people that shall be content to apply themselves to Tillage and Pasturage only, which possibly may be sufficient to finde themselves with food and rayment, will not be long able to protect themselves from Invasion of Forraigners, in regard such Land or Countrey would be exceeding thin of people, and not able to defend it selfe in all their quarters against such as would invade them.

There cannot therefore be any lasting security without trading. Trade like a continuall Market or Faire, invites people from all bordering Countreyes, and makes a Nation become populous: Besides, the greatest Trade of the world hath a capacity of undermining and eating out the lesser Trades of the world: the greatest Trade cannot be compassed without the greatest strength at Sea; and whosoever can make and continue the greatest strength at Sea, will enjoy the greatest Dominion of the world, which would long since have been reduced to one Monarchy, or one Common-wealth, had not such Monarch or Common-wealth, who at any time was most powerfull; and so in the fairest capacity of reducing all the rest, fallen short in their politicks and Goverment.

Had the United Provinces beene reduced into one Common-wealth, they had beeene in a likelier posture of compassing this universall Monarchy, then ever the Romans were.

were, who purchased all they had, at the swords point; or the modern Kings of Spain, who thought to have done it by their West-India Treasures, as indeed they might, had they withall but known, and joyned thereto, the mains Engine, and right State-mystery of compassing the same, which is to encrease Trade and Navigation. But this proud Nation stands so much upon what they call Gentility, and is no other then a condition not to be necessitated to worke, as that they will not labour in any calling an houre longer then to keepe themselves from starving. A very Farrier will stand at his doore with a grave bayes Cloake on downe to his heeles, and his Rapier by his side, untill you bring your Horse to hys to be shooed, and then to worke he goes; so soone as your Horse is shooed, on goes his long Cloake and Rapier again, and bee as great a Don as euer; which being the humour of the whole Nation, they are so farre-besotted therewith, as that much like the people of Guinney, they exchange their gold and silver of the West Indies, wherewith they might either have traded all the world out of their possessions by degrees insensibly for nothing, or bought them out of their free-hold at above forty yeares purchase; I say so many millions of money have they parted with unto other Nations for trifles to feed their own pride and luxury, which hath not onely set those other Nations at Warres amongst themselves, but enabled them to oppose the Spaniard in his aspiring unto the Universall Monarchy.

But let us take heed, the united Provinces have first made discovery of this grand Engine and State-mystery of encreasing Trade and Navigation for acquiring Dominion, and conserving it by good Government, wherein they excell all Governours of the world, by distributing Justice at home both indifferently and speedily, and protecting such

as live under them from all Forreign Enemies abroad ; they have made use thereof, and thrived thereby beyond all former generations ; and had they but gained Antwerp and Bridges, and been reduced into one Common-wealth or Principality (which might as easily have been done, and is still to be done as easily, as it was for England (which our eyes have seene) and Scotland to become one in 12. moneths) before we attaine to be true Trade-Statesmen) neither these three Nations most appropriate to command the rest, if we knew our own strength, nor any other in likelihood would be timely wise enough to oppose the successfull enlarging of their Dominions.

Now these two generals I presume your Honours will find necessary to be speedily dispatched, and that sundry others may not be left undispached, as the freeing tender consciences from paying Leviticall Tithes unto a Gospel-ministry which they owne not, the keeping people from begging and starving in the streets for want of employment. The lessing or quite taking away Taxes so soon as may be, with many other of no lesse Import, which I was bold to propound unto the late Parliament ; and had they put in Execution, as they might have done with no lesse ease unto themselves, then great advantage unto these Nations, their Honours would not have been so blasted as we now behold them. But since they still remain undone, and continue still to be of the same necessary concernment both unto our security and well being, I crave leave to annex them hereunto, not without some assurance, that if your Honours shall be at liesure to cast an eye thereon (and find that a stocke of money enough to compasse all of them, defray all manner of publick charge, and enable the Parliament by degrees, even in a few yeares to take off all manner of Taxes and Excise, and whatsoever else may be desired is as easily attainable without giving the

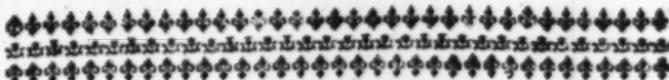
least cause of complaint to any sort of men within this Common-wealth, as that it cannot faile if you but say the word, & practice it withall, only through managing some busynesse of the Nations after a more ingenious method, then hath been discouered unto our Ancestors, and is now tendred to be made demonstrable by the Propounder) you will be so farre from thinking your time mispent in your perusall of them, as that you will be somewhat more enflamed, untill you see them accomplished, unto the exceeding great rejoicing of your own soules, and of such as bumbly concurr with you therein, and in what else shall be found needfull for the farther making out, and establishing this Common-wealth and other Nations derivatively from hence, in wayes of Peace, Truth, and Righteousnesse, unto all succeeding Generations.



The Reader is desired to mend with his Pen
what the Printer hath mistaken.



Certain



CERTAINE PROPOSALS IN ORDER

To a new Modelling of the *Lawes*,
and *Law-Proceedings*, for a more Speedy
Cheap, and Equall Distribution of Ju-
stice throughout the *Common-wealth*.



HE Persecution and Oppression of our late Kingly Governours, with their House of Peers, and Lordly Bishops, though at first not so well apprehended by great numbers, whom by Court Preferment, Corrupt Education, or otherwise they had seduced, is now through the Christian liberty of trying all things, become so clearly discernable, as that even the greatest part amongst us, and all Nations round about us, do much justify us in the Judgement we have executed upon them, both root and branch: The observation whereof ought to be no small inducement unto the same Heroick spirits whom God made instrumentall to execute his Vengeance upon such Enemies to true Godlinesse and Freedome, to cast their eyes about them, and spy out what work is yet remaining to be done by them, before these Nations can possibly enjoy so great a Good as the Lord may be presumed to have intended to them by their expence of so much blood and treasure.

It will then doubtlesse be easily perceived that the Lawyers, the men of Law, the whole Tribe, from the Judges to the Prison-door-keepers, though some of them, as to their

personall actings are not so blameable as other some, in their owne sphear of *Westminster*, have not onely been mischievous and destructive as *Canker-wormes* or *Pharaobs* lean Kine, unto these Nations, but have ever been those Mercuriall spirits and instrumencs, civil tormentors and executioners, to carry on and practise whatsoever our persecuting oppressing Governours, with their Peers and Lordly Bishops, have been executed for.

It was this Tribe that was so ready and willing to do their drudgery, that they might be maintained in buying and selling the Nations over and over, as often as they pleased; at one Term or Tryall the Plaintiff, and at another the Defendant, then back againe, and then forward, and all according to as good Law or Equity, as hath been in *England* since *William the Conquerour*. And besides all this, though they seem to have but one chief Shop at *Westminster*, a few stals erected for them in the Circuits, and their owne private Ware-houses at home, yet this one Tribe is thought to make a shift to gaine or reap one fifth part of all the gaines and increase of the whole Nation, by their severall wayes of incomes, which I know not well how to term, whether Fees, Bribes, Duties, or Extortions, they seem so like one another, or the same summed up together.

The knowledge of the Lawes whereby a man injoyes his life, liberty, and estate, and through breach whereof he forfeits all this temporall life affords, is not of lesse absolute necessity, as to the things of this world, then the knowledge of those religious, eternall, fundamental principles of Faith and Love, without which it is impossible to attaine the joyes of Heaven. And therefore our Lawyers in their spheare are no lesse Monopolizers & Usurpers, then the Prelatical or Popish Clergie, who endeavour by all means to continue us in the ignorance of our earthly patrimony and birth-right, the Lawes, not contenting themselves onely to perswade, but even in a manner compelling us to rest satisfied with an implicite knowledge thereof, and so in effect to depend totally upon themselves, and hold at their mercy our very lives, liberties, and estates.

This subtile Tribe without whose concurrence their royal Masters,

Masters, with their Peers and Lordly Bishops, could not have been brought unto Account, when they perceived and saw they had outgon their own politiques in questioning of them so far as that they could not retreat for shame, nor yet with safety, they then resolved to put the best face on it, and joyne not onely in executing Justice upon them all, but began to acknowledge their owne irregularities, and exorbitances, even not to be longer endured, and promised Reformation, which they have been (even round) about these ten years, and at last suffered Commissioners to be chosen to consider of the Regulation of the Lawes, and Courts of Justice, who that they might not be over-charged with so great a task, they gave them halfe a dozen of Gentlemen of the same tribe, to save them a labour (I wish it proved so) and what fruit it produced, is best knowne unto themselves; but it seems the late Parliament could not digest, but still grew worse and worse untill its dissolution: And these poor Nations still continued to be mis-governed by a hotch-potch of Linsey-wolsey Lawes, so numerous, as not to be learned or comprehended, some so differing as that they contradict and give the lye to one another, so irrationall and absurd, to spare worse words, as that they character us to be one of the most barbarous people in the world. And that which is yet worse then all the rest, the evill execution of them with their delatorinesse and charge in so high a measure as demonstrates us over-dull and stupid to endure them hitherto.

In the making of all our Statute Lawes, the establisheing the Kings Prerogative was more aimed at then estating the people in freedome, which though never so much the peoples due and birth-right, if ever they vouchsafed us any Crums thereof, they forbore not to entitle them pure acts of highest grace and favour. Now for a people redeemed out of the jaws of Tyranny, and desirous to settle and establish themselves, and be made happy under a Common-wealth Government, with the self-same Lawes which were either wrung from their excluded Tyrants in their exigency, or any wayes indulged (as they would have it accounted) is no more possible then for a Tyrant to erect and long to continue an Usurped Jurisdiction, while he governed by a body of Lawes that had

been enacted by the free people of a Common-wealth. Let us therfore no longer idolize that thread-bare notion of fundamentall Lawes, wherein perhaps the whole Nation hath too much, too long hypocritised. And yet I hope no other wise then an honest Traveller, who in discretion is bound to give out no offensive words, whilst he finds himselfe encompassed by Theeves: Wherefore let not any of our former Lawes or Customes, no more then our Religion hath done, passe unexamined, and so scape being blasted or allowed of as they shall tend to the true freedome, securing, enriching, and contenting of the people of the Nation.

To be led implicitly to accept of Lawes we either have not tryed, or understand not, is the second grand indiscretion which a Nation can possibly commit, and inferior onely to that of being superstitiously hurried by an implicite Faith in matter of Religion, as aforesaid. But will we in one word or circumstance see the unlikelyhood of the Lawes becoming wholesome to us, without more then a little rectifying, qualifying, if not quite new-moulding them? Did not the late King *CHARLES* pretend, as well he might (for they were more his then ours) to fight for defence of the Fundamentall Lawes, and the Protestant Religion? And doe we think his Lawes and his Religion, together with his Judges (for they also were more his owne, and complyed more by base Explications, then either his Lawes or his Religion) would ever have cut his Head off for fighting to maintaine them? Certainly it was another, and that far better, as more rationall both Religion and Law, that freed us from this superstition and vassallage: And if we doe not more speedily begin to owne it, ere long I feare we shall be brought to be too much dissemblers: Let us not then implicitly or hoodwink'd trust those Lawes which have been subservient to the lusts and pleasures of Tyrants of so many Nations, who by invasion of this Land have usurped jurisdiction over us.

But

But rather then this Legall Bondage, and implicate proxie Religion should be longer continued, *It is Propounded,*

The first Proposall.

I. **T**HAT all the present Courts of Justice be abolished, and no Proceedings either at Law or equity, except against such as disturb any man in his present possession, who by the next Justice of Peace may forthwith be put againe into possession. Or against such as shall injure any man in person or name, whom likewise the next Justice of Peace may punish, according to brief Instructions to be appointed in that behalfe. And for matter of Bonds, Bills, or Brak Debis, upon Request of the parties the next Justice of Peace to require execution and present payment, the Creditor putting in unquestionable Security to stand to such further Order as shall afterwards be agreed upon by the Supream Authority in that behalfe. And all other Laws, and Proceedings at Law or equity, to be of no effect: Nor any other proceedings to be at Law or equity, untill the Supream Authority have new modelled them, together with the Officers and Courts of Justice, which is hoped may within lesse then six moneths time, if gone up, be compassed.

The second Proposall.

II. **T**HAT in the new modell of all Officers, both Judges and others, have their respective standing Salaries, which may be a competent and comfortable livelyhood, and not suffered to take any Fees, Gift, or thing, whether money, or moneyes worth, upon greatest punishment both to the Giver and Receiver, to impeach and accuse each other, and enjoy immunity to himselfe, and one halfe of the Fine, the other halfe unto the State. And that as well Judges as other Officers, be present, and doe attend upon their respective charges every day in the weeke except the Lords day, and dayes of Publick Humiliation and Thanksgiving, from 8 till 12 in the forenoone, and from 2 till 6 in the afternoon; if any one person appears upon any busynesse what soever, and desires to be dispatched by the Judges or any other Officer what soever.

However through the Tyranny of the Powers, th: practice at this day be quite contrary; yet such as aim at Common good will find it very just and reasonable, that even Judges and all publick Officers, who have a Salary, should rather at-

tend and wait the peoples leisure, who pay them their wages, then that the people, even every individuall person who is their Master, their best master, their pay-master, should wait upon their Officers, their Servants.

The third Proposall.

III. *That there be no distinction of Courts of Common Law, and Chancery, but that all Courts of Judicature have the power both of Law and equity to qualifie the one with the other, and to determine all Causes brought before them.*

The having so many severall sorts of Courts, especially one differing from, and condemning what the other Judged to be just and righteous, doubtlesse was not onely one of our Tyrants stratagems to keep the people in vassalage; but the Lawyers great Engine to make more work for themselves. They first tell you, and that plausibly enough, that the world is stark naught, and that therefore a man cannot be too carefull and cautious in contracting with any person, or what security he takes; and thereupon councel him to get a bargaine and sale, a mortgage, or a penall Bond, or sometimes all of them together, double, treble, and perhaps six times as much as the Debt imports: Now if this party be put to sue upon either of them, or all, though he would be contented to take his bare debt with interest and charges, he is not permitted to sue for the same in Chancery, but is turned over to the Common Law, where he may not demand lesse then the whole Forfeiture, be it never so much, and the Common Law will give it as certainly, whether it be right or wrong, if he can but declare and lye after the Common Law fashion; but he had need be well versed and precise therein, for if he come short of a letter, nay if a letter do but look asquint, an ignorant or a knavish Jury may put him to begin againe, or loose all, both principall and penalty. In commiseration whereof, our good Governours, and yet the selfsame Tyrants, and their equitable Lawers, prevail'd to possess this over credulous Nation how reasonable it was to have a Courte of Chancery to qualify and mitigate the rigor and Tyranny of the Common Law.

The

The truth is, the Common Law is extravagant enough, to say no worse of it, but to flye therefore into the Chancery is a remedy worse then the disease, leaping out of the Frying-pan into the fire is not so bad. The Common Law, if our Attorneyes were true to us, would not keep us long in purgatory, but of the torments of Chancery you must have good luck if you find either end or respite, to doe you good ; and your adversary must want money to fee Lawyers, enough to confound the Cause, and muddy the waters, as they doe usually, that a Register (who doubtlesse made more Orders then the Judges) seldome gets fast hold thereof, though he make a hundred Orders at his pleasure.

How easie a matter were it then to prevent such waste of time and moneyes in following two Courts so diametrically opposite ? Had you not better that either of them should dispatch you, and put you out of paine speedily, then to be ground in pieces between them both so long together ? But what a cheat is it for the Chancery to dismiss the Bill for demanding principall and interest onely, upon a penall Bond, and turne the Plaintiffe over to the Common Law ; and yet after a yeaere, two, or three upon the Creditors suggestion farced full of lies and forgeries (which no Bill in Chancery is free from, nor scarce answer without perjury, and yet a christiani Chancery) not to give full charges and interest, which yet the Chancery necessitated the party to be at, in that it put him to demand and recover the penalty at Common Law.

But let us see what kind of relief it is a poor man gets by flying into the Chancery ?

Suppose a Verdict is by perjury, surprisall, or otherwise, unduly obtained against a man, whereupon he gets an injunction, and serves his adversary himselfe, the then Attorney, and Councillor ; the party afterwards Fees other Council, perhaps another Attorney, obscures himselfe, and carries on the Cause to an execution, and puts the party in prison, and then no remedy because the Judges forsooth they may not be served with the Injunction.

Surely a Nation is at an evill passe when it must be perplexed and squeezed to pieces between their Courts of Law, and equity, whilst the Officers thereof between complementing and

and envying each others, erect their owne jurisdiction and prerogative: Certainly the Court of Chancery as Supream ought to have its Injunctions obeyed even by all other Courts and the Officers thereof, otherwise what availes it to direct an Injunction to Councellours, Attorneys, Sollicitors, Agents, when as if you have served all but one in *Westminster-Hall*, that one onely may doe the feate, and consequently quite frustrate the injunction; wherefore although the Chancery doe not direct them to the Court and Judges themselves, with all their Officers in generall, doubtlesse it could not be out of any other consideration, then of respect unto the said Court and Judges, who by the same rule ought, when they understand of an injunction in a Cause, not to proceed any further, out of the same respect to the Chancery their Superior.

The fourth Proposition.

IV. *That all matter of Trespass for words or deeds, and Batteries, be tryable by the next Justice of Peace, if at home; or else by the second next Justice, where such Trespass or Battery is committed. As also all Actions for Debt, under 40 s. and so to be determined interlocutorily, if the said Justice can agree them within 48 hours: But if not, then each party to have his Case put in writing by the said Justices Clerke, or any other friend, as each party pleases; and how or in what manner the Justice would have determined the same, to be without interlineation subscribed by the said Justice and both parties, and so sealed up and transmitted by the Justice unto the County Court. And that onely every injurious, or offensive Action, but every scandalous or upbraiding word be punishable, according to the degree and occasion thereof, because otherwise the parties wilbe provoking one another, supposing they are still without the Law, untill they fall into greater injuring and endamaging one another, even to a down-right disturbance and breach of peace.*

If the Supream Authority shall please, the result and determination of these Justices for all matters of Trespass and Actions of debt not exceeding 40 s. may be definitive and binding, and the said Justices obliged to see them executed. But withall, that it be free for the party grieved, by such determination, to appeal unto the County Court, who if the appeal be

be allowed, may condemne the respective Justices in all damages and double charge, and so contrariwise if the appeal be disallowed.

The fift Proposall.

V. That there be a County Court, where one or more persons as Judges, shall be impowered to allow of Wills, and grant Administrations, within the said County; and to take cognizance of all Causes transmitted to them by the Justices of the said County; And of any complaint or demand whatsoever, whether criminall or civill, for any Debt contracted, trespass done, or action triable within the said County: which said respective Judge or Judges shall forthwith fall upon, and take them into consideration, each by course, and so soon as it can be put in readinesse, according to the Orders of the Court in that behalfe.

It may not be amisse, nay like enough, the preventing many a Suite, That the County Court doe not admit a Bill or Declaration from any Plaintiff in what Cause soever, unless he bring a Certificate annexed from the next two Justices of Peace where the Defendant resides, that the said two Justices of Peace have seen the said Bill or Declaration, & summoned both parties before them, endeavouring and persuading them to an agreement, or such manner as did appear unto the said Justices, to be just and reasonable, which the said Justices may be required to dispatch with all possible conveniency, and not to exceed ten dayes at most; withall to certifie how forth the Defendant was willing to comply, or stood refractory.

There may be perhaps at present sometimes from 20 to 80, between Causes and Motions heard at the Chancery Barre, and Upper Bench in one morning, perhaps in lesse then three or four hours, but how advisedly or considerately, let all the world judge, or any one in particular, that is but a stander by at any time: It is not fit that any Cause or Motion shou'd be huddled up, that another should succeed. It is the long delay in dispatching Causes, and the making of so many extravagant and contradictory Orders, which makes Suites so intricate, and tedious to be decided at last. No man should be abridged in opening of his Cause or Motion, which being well

done, the Judge will be the better able to understand and determine it more speedily, and more agreeable to the justice thereof, and so Causes will happen to be finally determined, faster then new Sutes commenced. And when one Court in a place is not sufficient, as in London, or in great Counties, it is better for to have two or more Courts, but one judge in each of them were best, and will likely dispatch more then two, and more unbyassed; whereas being two or more, they will endeavour and be encouraged to fix the blame upon each other for what they have a mind to trespass in; for how shall it be discerned who is most in fault, when both or all of them subscribe the judgement? or what if they disagree about it, how shall it then be determined?

The sixth Propofall.

VI. That the Judges in each Court upon their first sitting, aske if there be any Paupers, and dispatch them first, and so likewise at last aske if there be any Paupers that could not get ready sooner, and dispatch them before the Court rise.

The seventh Propofall.

VII. That the Bill, Demand, or Declaration be put in, and left in writing, with the Judge, or his Clerke, appointed to receive the same: And a Copie left at the other parties habitation, signed by the partie himselfe and his Clerke. And all Answers and Pleadings to be likewise put in writing, and Copies signed and left as aforesaid: And that it may be lawfull for the Plaintiff, infisting upon his former demand, to rejoyn and adde unto his former demand, producing whatsoever Depositions, Certificates, Evidences, or authentique Copies therof to be compared with the Original, upon the request of the other partie, and whatsoever other proofs the Plaintiff please, leaving Copies as aforesaid, and the other party or Defendant infisting upon their former Answers againe to answer so often as they see cause, untill the Judge, at either of the parties request, shall give eight dayes notice unto the other to finishe and compleat the Processe or Proceedings for the Judges perusal, who is not to reflect upon any Allegation in behalfe of either partie, unless the same be put in writing, and found duly fyled with the rest of the proceedings. And whereof the other partie had Copie given him, and due Notification to reply as aforesaid.

foresaid. And that all Bills, Answers, Declarations, Pleas, &c. do no longer run in a flatish petitionary way, as formerly. But barely in the name of the Plaintiff and Defendant, with such distinction onely, and place of abode, as may distinguish them from all other persons.

The present practice, but a most wilde course it is to conceale the Evidence untill the very poynt that Judgement is to be given, when the parties cannot in likelyhood haue time to read them, much lesse to advise and make exceptions, nor to enquire of the Witneses produced, how far they may justly be excepted against as incompetent, much lesse advise how to crosse examine, or disprove them; but the truth is, we are so irrationally grounded, as that we may not to our advantage, gainsay a Witnesse, though he depose never so falsly, or perjuriously: we are told we must take our course, and impeach the Witnesse of perjury; and is not this a pretty amends? an unconcionable Cative gives a Knight of the post, a hundred pounds (perhaps a hundred pence may doe the deed, for they are good cheap) to swear for him, whereby he recovers a thousand pounds of me, and all the recompence our good Lawes will give me, is to see my Knight stand in the Pillory, and loose his ears, for which sight, yet sometimes perhaps I must pay more in porsecution of him, then this rascal had for his *judas*-like betraying me.

The very forme and draught of a Bill, or Answer in Chancery, Court of Wards, Exchequer, and other Courts, was a clear badge of our vassalage and slavery, and not longer to be endured by a free-borne Nation. Justice is the birth-right of every individuall person, to become as free to us, as the aire we breath in, to be demanded modestly, not petitioned for.

Perjured or false Witneses have hitherto scaped scotfree for the most part, because, though the party who was perhaps undone by such false Witneses, prosecuted, & was at charge to cause such perjured person to loose his ears, and be fined to the Common-wealth, yet he had no manner of recompence, or satisfaction for his owne losse, through such perjury, wherefore it is propounded,

The eighth Proposall.

VIII. That each party be free to examine Witnesse's of course, by the Examiner of the place where the Witnesse's reside, to be transmitted unto the Court where the Cause depends, so soon as they please; first giving notice unto the other party, and afterwards a copy, both of the Interrogatories, and depositions, so soon as they are taken. And that it be free for either party to crosse examine Witnesse's, whil'st the Cause is depending, and have four dayes at least, or more or lesse time, according to the place where Witnesse's reside, assigned him for crosse examining such Witnesse's, of whose depositions with the Interrogatories, Copies are to be given as aforesaid. Or rather to prevent the expence of often writing, and coppying out superfluous Interrogatories and depositions, That it be lawfull for each party to take by way of Certificate upon Oath, made before any Justice or Judge, under the hand of any such Witnesse, what such Witnesse can testifie in the Cause depending, and leaving Copy thereof with the other side, to fyle it with the other proceedings as aforesaid, which the respective Judges are to take notice of, and to make the same use of as of depositions: And the other side is free to crosse examine, or to get crosse Certificates from the said parties first certifying, and leaving Copies thereof, as aforesaid. And all persons so certifying Witnesse's or depositing any thing contrary to truth, shall be lyable to be proceeded against, and condemned in all manner of damages, unto the party grieved.

It is impossible to know how in judgement to cros-examine Witnesse's, unless you know what he had first deposed, and generally such as are employed as Commissioners to take depositions, doe not so exactly know the method to be used therein, nor their Clerks qualified to pen them as they ought to be; and many not able to write legibly, much lesse sensibly. Witnesse's at Common Law may be produced and alledged to be such and such, abiding here or there, when as afterwards no such manner of person to be found, or if found, known to be incompetent Witnesse, which could not be objected at the Tryall, because the other party had not timely notice of their names, to make enquiry after the parties themselves.

It is no matter how leading Interrogatories be, and it were much to be wished, that an Interrogatory could light or point out every circumstance which might conduce to the discovery of truth, that the trouble and expensiveness of others might be avoyded, and if any one be found deposing an untruth, he may be condemned in full dammages of all sort.

And since Decrees & Judgements are the most weighty and important Acts of the Nation, and therefore ought to be well weighed, and not pronounced extemporarily, as hitherto: And so much the more unconsidered, by how much the Counsellours, Attorneys, and Sollicitors, on each side, continually and even purposely, interrupt each other, and suffer not the Judges to have a clear understanding of the Cause, it is Propounded,

The ninth Proposall.

I X. That the Judge having perused the whole proceedings, and considering of it seriously, while the same is fresh in memory, without regarding any thing, but what is filled with the proceedings, shall either draw out the Order, Decree, or Judgment by himselfe, or give instructions how to have the same done, & then read it over advisedly, and subscribe it with his owne hand, to remaine with the whole proceedings ever after upon record.

Though the most unjust Order or Decree be passed against any man, yet if it remaine not upon record what Evidences were produced, and what Witnesses did testify, the Judges will avoyd the charge thereof, in alledging that this or that Evidence was produced, to ground such Order or Decree upon, or that nothing appeared to the contrary, and so secure themselves from being impeached: And if it be said that Witnesses may be produced to make out the Charge against such Judges: It is Answered, that the said Judges will also if need be, produce Witnesses enough to depose the contrary, and so cause them to perjure and out-swear one another, and all this because the Allegations of both parties were not written downe to remaine upon Record.

The Objection that if the Judges, whether at Common Law, or in Chancery, should read both Bill and Answer, Declaration,

claration, or Plea, &c. put in writing, much time must necessarily be spent, and few Causes dispatcht; will easily be Answered, and made appear, that this way would not onely dispatch more causes, but also more speedily, in that the greatest part of time now spent, is in making Orders and Decrees which are afterwards countermanded by contrary Orders and Decrees, and that upon good grounds many times, as being in themselves ungrounded altogether. And if a computation be made of how many Causes have been finally determined within these eight years, I believe it will be found, that even a greater number of Causes wherein every, Demand, Answer, Reply, &c. had been succinctly put in writing, and afterwards read in presence of the Judges or Commissioners themselves, might with more clearnesse and justize have finally been determined in eight moneths. And the truth hereof may easily appeare, if a search be Ordered to be made, first how many Motions, and secondly how many needless Orders have been made, and how few Causes finally determined within these eight yeares, and a Computation made accordingly.

The tenth Proposall.

X. That it be lawfull for either or both parties agrieved within eight dayes to appeale from one and the same Order, Decree, or Judgment of the County Judge to Westminster, and from Westminster to the Supreame Authority, who in case they finde the Appellant to have unjustly appealed, are to condemn him in all manner of costs and damages unto the other party; If otherwise, to give him all manner of damages, with double costs at least. And if no Appeal be filed within the said eight dayes, then Execution to be granted both against body and goods reall and personall.

There will be no inconveniences in so many Appeals, if the party unduly appealing be condemned in damages and charges unto the party grieved as is propounded.

I have heard of an ungodly Proverb often repeated in other Countries, which sayes, *Happy is the Sonne whose Father is gone to the Devill*: Their meaning is this, that such a sonne had good luck whose Father adventure losse of soule and body to

to leave his sonne a great Estate. And though this graceless saying be not in proverb, certainly it is no where more in practice, neither are any people so highly tempted thereunto as in this Nation: It being a maxime in our Laws, that personall actions dye as well as persons, so that if a man enrich himselfe by Bribery, Perjury, cheating, lying, stealing, or murdering an Heire that stands between his Family and a great estate, or the like; If he do but goe aside, and play least in fight untill death summon him to an account, his children enjoy his evill gotten lands or riches as freely as any other estate. It is therefore Propounded,

The eleventh Proposall.

XI. That upon the Defendants or Plaintiffs death, the Executors or Administrators of either producing Certificate of the Administration granted, which is to be exhibited, and remaine syled with the rest of the proceedings, Further proesse may be made as before, without any losse of time and charge, except the contrary party take Exceptions unto such Certificate, which in such case is to be speedily argued and determined as all other exceptions are upon all other emergencies whatsoever, Copies being first given to the other side, and the party unduely troubling the other, to be condemned in Charges as Dammages as aforesaid; so that all personall Actions may be freely begun and prosecuted by or against the Executors or Administrators, as if the Principall were living.

The twelfth Proposall.

XII. That if the Report of the Justices be confirmed by the County Court; Or if the Judgement or Decree of the County Court be confirmed by the Court at Westmin. then such said respective second judgment be ultimate, & stand unrepealed as to the party, in whose behalf it was given: And that it be free notwithstanding for the party grieved to appeal from the County Court unto the Court of Westminster, or from the said Court of Westminster unto the Supream Authority; who if they confirm the same, may condemne the party unduely appealing in double costs, and one fourth part of what bee so unduely appealed for. But if the County Court, or the Supream Authority see cause to reverse the judgment of the respective inferior Judges, then to condemn such respective Judge or Judges in all manner of damages: And that the Judge or Judges of each Court up-

on the final Decree or Judgement of any Cause, do put in writing the motives which induced them to passe such Judgement or Decree, subscribed with their owne hand to remain upon Record with the rest of the Proceedings, which at the end of the Suite are to be stiched up together, and so bound up in great Volumes as big as are manageable, and exactly Alphabetized and orderly laid up in presses, as that they may be speedily found out upon all occasions.

For unlesse the Judges who are not subject unto their own or any subordinate Court, be questionable by the Supream Authority for male-administration of Justice, the whole Nation will be lyable to be undone by them, without remedy. And then again, unlesse the Supream Authority take such course, as that all Petitioners, whether against Judges for male-Administration or other grievances, wherein they can no where else be relieved but by the Supream Authority, may have easie accessse and speedy dispatch without charge, the remdie will be worse then the disease: And the people had better let all flye, then purchase the hopes and expectation only of recovery thereof with over-long attendance, excessive expence, and extream vexation.

But if it be queried, who will then be Judge to the hazard of his owne estate even for erroneous judgments, and though he proceed never so uprightly according to his best understanding and conscience?

I answer; That it is presumed the superiour Court, and the Supream Authority will not be over-rigorous against such Judges, as clearly appeares, to have proceeded so diligently, advisedly, and uprightly, as could humanely have been expected, especially in doubtful cases; But if not as wel for erroneous and corrupt judgements they be censurable, though they be never so corrupt and byassed, they will still alledge to have proceeded and judged according to the integrity of their owne Conscience, and their utmost understanding, and so scape scot-free, as Jury-men and Judges have done hitherto, though they passed never so many Orders and Decrees, one directly crosse and contradictory to the other.

Besides, why should any one of the Nation suffer or loose his estate through the error of another? especially when the other

other covenants, and hath a price for what he undertakes, and so becomes a servant unto the Common-wealth: And Judges ought no lesse to act any thing at their owne perills, then any other person throughout the Nation. And if they will not accept thereof upon such terms, they are equally free with others to wave the same. Have there been so many thousands of truely conscientious, godly, and understanding men, even capable of highest employment, who adventured their lives *Gratis*; othe^{rs} for an inconsiderable pay for a bare livelihood, even eight pence a day, and they done better service then many a Counsellor or Judge: And shall wee feare there will want persons fitly qualified to make Judges in our Land? Surely such as have run greater hazard, and done better service then severall Judges, without any at all, or for farre lesse consideration in way of wages then a Judge hath done, will not decline a lesse hazard when it may redownd more unto their Countries good nor prove lesse accomplished for the service.

The thirteenth Proposall.

XIII. *That no Counsellour be permitted to take, or Client to give above 10. s. for any one Motion or Hearing upon forfeiture of ten times the value, one halfe to the Common-wealth, and the other to the Discoverer: And that it be free for Giver and Taker to impeach each other, and enjoy the benefit thereof; and the Counsellour being twice convicted for taking greater fees, be made incapable of further practising in any Court: And that no Counsellor having taken his fee, do omit to be present precisely at the beginning of such Motion or hearing as he takeith his Fee for; Nor move or plead in two Courts sitting at the same time upon the same penalty as aforesaid.*

The greatest part of motions is grounded upon matter of fact, and is easie discernable, it requires not for the most part about ten or twenty words, which may be as well, & cheaper uttered by the party himselfe, or any friend of his, wherefore it is propounded.

The fourteenth Proposall.

XIV. *That the parties themselves, or any Friend for them be permitted*

permitted to speak if they desire it. And that not above two Counsellors be heard upon any Motion or Hearing, and that all persons be free to act as Attorneys, as well as in any other Trade or Calling throughout the Nation.

The 15. Proposall.

XV. That all Motions and Causes for Hearing be entred in course according as the parties Clerks or themselves appear to desire the same: And who soever intends to move in any Court, doe first give a Copie of what they intend to move for unto the Clerke of the other side; and if the other side yeeld unto it, or any part thereof within 48. hours, they may draw up an Order by consent: And for what they cannot agree, the party upon 24. hours notice may move: And if the Judge or Judges see cause to grant the motion, that he condemn the other side in double charges: And if that motion be denied, then the party moving to be condemned in double charges: And that all such Orders be drawne out briefly and clearly, and as neer as may be to the present Rules at Common Law.

The sixteenth Proposall.

XVI. That one and the selfe-same Execution be taken and serve against person and goods both reall and personall in any part of England and Wales to be directed to all Sheriffs in generall, but to be served by the party himselfe, in whose favour it was granted if bee please, or by whomsoever else he shall employ: And the like for all other Writs and Notifications, provided they be persons of Integrity who are so employd, except to give notice of a tryall or hearing, which may best be done by a publique Officer.

The seventeenth Proposall.

XVII. That the unnecessary sealing of Writs, &c. be forborne, and that all dates be expressed by the day of the moneth and year, and that all Writs be sent open and directed to all Sheriffs in generall, or to such other publique Officers as for their salary and fees, or otherwise doe voluntarily acceptt thereof. And that what persons soever being to be served with any Processe. The Sheriff or his Deputy so soone as he receives the Processe, be obliged by himselfe or his Agents to re-paire within three dayes unto the dwelling house or habitation of such person upon five pounds penally, and not meeting with him, to leave a Noti-

a notification thereof in writing nailed upon the door, or gate, which no person may dare to take downe, but the party him selfe, whose name is to be endorsed upon the outside, that it may be apparent to whom soever enters or passes by: And if such person within other three dayes appear not to the Sheriff or his Deputy to be served with such Processe: That then the said Sheriff return such Processe by the first or second Post next following, or by some Messenger whom may bring it with like speed upon penalty of 20. s. a day for such dayes which such Processe shall be longer delayed to be levyed of course by the Sheriff of any of the next adjoyning Countys on the Lands and Goods of the said Sheriff to the behoofe of the party who tooke out the Processe, together with his charges, without the least mitigation.

The eighteenth Proposall.

XVIII. That the Sheriffs, their Deputies, Bailiffs, and other Officers have their knowne Residencies where the people of the Nation may be sure to finde them at their usuall houres, and be dispatched without delay.

The nineteenth Proposall.

XIX. That whosoeuer shall undertake the serving or executing of a Writ, and reveale the same, whereby the party escapes, or omit to serve such Writ, or to Arrest any person, when he or they might probably have done it: And having apprebbended him, shall not forthwith deliver him up into safe custody, without making any stop or stay by the way. Or that shall not keep him from escaping, or suffer him to be rescued through connivance or want of diligence, shall be liable to make good all charges and damages ensuing therepon.

The twentieth Proposall.

XX. That for the future all Rules, Appearances, Imparlances be entred in publicke Bookes, or rather annexed to the Processe or other proceedings whereof both Plaintiffs and Defendants should be free to have recourse. And that Copies thereof be forthwith given unto their Clyents respectively by their said Attorneys and Clerkes upon 20. s. penalty for each default to the use of their respective Clyents together with whatsoeuer damages their Clyents shall sustaine for want therof.

The Attorneys or Clerks in all Courts give rules or terms according to the custome of their respective Courts, all which they enter in their owne books, as also Appearances.

Now they themselves being Masters of these Bookes, they write in them what, and when they themselves will, and will not let their Clyents see but what, and when they list: So as it is clear, that the Clerks on both sides combyning together, may use or misuse their Clyents as they please, their Clients not being able to hinder it, nor in any possibility of understanding when their Clerks play the knaves with them, much lesse to remedie it when they know the same.

The 21. Proposall.

XXI. That no person who hath not engaged himselfe by some Deed or Covenant under his owne hand, nor that is known to have a reall estate responsible, be liable to arrest till after Judgment. Nor other person, except upon Affidavit, that he conceale himselfe or his estate, or intends to conceale himselfe or his estate, or to leave the Land, or make his estate away beyond Sea.

The 22. Proposall

XXII. That what person soever (being by casuall and unavoidable losses, whether by See or Land, brought behind hand, and disabled to pay his debts, after sixe months imprisonment, if his Creditors require it, shall without all manner of deceit and collusion renounce all his both reall and personall estate to the beboofe of his Creditors, except his owne, his wifes and cbildrens weareing Apparell, Bedding, and Instruments particular to their Calling. As also 12. d. in the pound upon the value of whatsoeuer such person shall so resigne and renounce unto his Creditors to be divided amongst them ratiably, according to their respective credits, shall from that time forwards by the Judge of the place where such Debtor lives be discharged from all manner of actions which his said Creditors had against him. But if it appeare at any time afterwards, that such Debtor did conceale any of his Estate, whether reall or personall from his said Creditors, or had before-hand made it over in trust to any person for his owne use, to the defrauding of his said Creditors, then shall the Debtor be lyable to be put in prison, and remaine there, and be kept

at worke untill he hath satisfied his Creditors to the full. And that all persons under Execution upon actions of Battery or Trespass: If they have not an Estate to satisfie such Executions, that their Fines be exchang'd into so many moneths or years working, to the benefit of such person as they have trespassed against: Or else into certain corporall punishment according to the nature and degree of the offence committed.

And since the lying kind of penall Bonds and Mortgages have beene long since anathematiz'd for usurious, not onely amongst such as would be accounted best Christians, but elsewhere; That we may not be worse Christians then they, more barbarous then any, nor the Lawyers to continue longer to make a prey of us, it is propounded

The 23. Proposall.

XXIII. That all single Bonds and Bills of debt may tacitely imply an Obligation of Interest to be due, equall with the principall, from the day such Bonds and Bills became due, untill the day that both Principall and Interest be satisfi'd together with damages and charges: and that a duplicate of such Bonds or Bills voluntarily registered in an Office for that purpose, and from thence certified at the Obligors request unto the County Register be entred as an Incumbrance upon such Obligors lands by the said County Register, who shall also endorse the said registering or enrolling upon the principall Bond or Bill to be secur'd therby, according as it comes in course; and that the said Bonds and Bills being assignd over from one man to another as often as the parties please may be good in Law, and stand irrevocable, and enjoy the same Priviledges being registered as aforesaid.

So great a part of our civil Covenanting hath been by way of penall Bonds, Morgages, and such like Usurious and Extortionary Contracts, as most clearly demonstrates this Nation, not onely to have been far from true Christianity, but to retaine very much of Barbarisme. First in that our Bonds are commonly mad: for double the debt, and so make all parties even under hand and seale before Witnesses, to be lyars upon

on Record, and Mortgagess the like: And both one and other upon failer of a day, forfeited at Common Law irrevocably. But shall we be accountable for every vaine idle word, and shal we scape scot-free for our lying extortionary Contracts, because they are according to customary fundamental Lawes of England? Certainly no other then the Devil, by his instruments the Lawyers, could be the Inventers and Upholders of such Lawes, such Contracts, and thereby of their own Trade, and Mystery, their robbing and tormenting of a Nation; the greatest part of Law-suits arising from such devillish and unchristian-like ensnaring Bonds and Contracts; for a Usurer or Money-menger, desiring to make the greatest improvement of his stock, advises with his Lawyer, who bids him take his Debitor by the throat, get a Mortgage of him, an absolute Bargaine and Sale, or a Bond with double penalty, and perhaps all of them together, to hold him so much the faster. Secondly, when the poor Debitor feeling the Rope about his neck, expresses an unwillingnesse to be made thus accessory to lying and his own ruine, it is told him, the Chancery will forgive and pardon him; whereupon to prevent strangling at that instant, he sets his hand and seale, and gets a Reprieve for six moneths longer, or some such breathing time, which being expired, the Creditor is not admitted to goe the nearest way about by the Chancery, to regaine his principall with interest and charges, which some of them would be contented with, but must first goe to Common Law, and get the forfeiture of the Bond, and an entry upon the Mortgage, and afterwards use the best means he can, that the Chancery after some yeares progresse, may make an end of undoing what the Common Law had done, before he can be at liberty to receive and injoy any part of satisfaction.

In briefe,

1. Calliere all supernumirary Officers, as the Masters of Chancery, Six Clerks, Prothonotaries, with all such as serve themselves more then the Common-wealth, and let necessary Officers, such as serve in person, as well as Judges, have standing Salaries, whereof they may live comfortably, and not take any manner of Fee or Gift, money, or money-worth.

2. Let

2. Let all parties be heard and dispatched as they come in course.

3. Let the Judges be fineable for every erroneous or unjust judgement.

4. Let the party demanding, put in his demand in writing, signed by himselfe, and leave a Copy with his adversary, who may be obliged to answer as speedily as the place where he lives, and other circumstances permit, and each be finable to the other, full costs and dammages, if they ask what is unreasonable, or deny what is reasonable.

5. Settle the County Register of Lands, with their incumbrances, so often promised, and so much seemingly intended by the last Parliament.

6. Encourage in such (or any better) manner as is propounded, a voluntary Register of Bills and Bonds, whereby they will become currantly assignable; which two Registers onely would have much relieved us from the Lawyers oppression.

7. Let there be no distinction of Courts of Chancery and Common Law.

8. Let there be County Courts, and let the Judges or Commissioners thereof have power to judge all Causes indifferently, having regard both to the letter of the Law, and the equity thereof, as in a middle way between them both.

9. Let but one, or at most but two Councillours be heard on any side, either at Motion or Tryall; and that the parties or any friends of theirs, be free to speak in the Cause.

10. Let the Judges peruse the whole proceedings, and signe the Judgements, and Decrees themselves, and be obliged to condemne the guilty in interest, charges, and all manner of dammages; so may we for the future be happy in the Lawes protecting us, as we have hitherto been miserable, through their entanglements and thraldome.

But since neither a new body of Lawes can be prepared on a sudden, nor the old Lawes or proceedings be so soon new modelized as were to be wished; as also in that there are multitudes of Causes, both at Common Law, and in Chancery, which cannot be dispatched for want of time, and if turned

over unto the new model, in the perplexed condition they are in, would never suffer the Judges to get before hand with their worke; It is therefore humbly Propounded in the meane time,

I.

THAT the Upper Bench Court, Common Pleas, Exchequer, and the Dutchy, doe continue to beare and determine Causes, as well in the Vacations, as in Tearme, untill all Causes be determined.

II.

That two Judges may be a Quorum to all intents and purposes, in the Upper Bench, Common Pleas, and the Exchequer, and any one of them in the Dutchy.

III.

That if any one of the two, or both Judges of the Upper Bench, Common Pleas, or Exchequer, or the Judge of the Dutchy happen to be visited with Sickness, or otherwise prevented from attending upon his, or their respective Courts, that then any of the other Judges may supply his or their stead, and such Court to sit the same day in the Afternoone, and publique notice thereof to be given, so soone as it can possibly be done.

IV.

That to the Judges which by this meanes will be spared at Westminster, may be added so many more, as may goe the Circuites every two Moneths throughout the Land, untill all Causes bee determined.

V.

That there be added three Commissioners more, unto the Chancery, any two whereof to be a Quorum to beare and determine Causes daily in three Courts, to prevent the buddling over Causes as at present, untill they be determined; and if any one of the said six Commissioners, or Master of the Rolls, happen to be prevented as aforesaid, any of the other to supply his roome, and such Court to sit in the Afternoon, and publick notice thereof to be given as aforesaid.

VI.

That all Motions and Causes for bearing, be entred in course, according

according as the parties or their Clerks appeare to desire the same, and that whosoever intends to move, whether in Chancery, or at Common Law, doe first give a Copy of what he intends to move for unto the Clerk of the other side; and if the other side yield unto it, or any part thereof, within forty eight hours, they may draw up an Order by consent; and for what they cannot so agree, the party upon twenty four hours notice, may move, and if the Judge or Judges see cause, to grant the motion, that he condemn the other side in double Charges, and if the motion be denied, then the party moving to be condemned in double Charges.

VII. That each Court at first sitting downe, doe beare such motions as are tendered, and so likewise at their rising daily.

VIII. That for all Bills, Answeres, Demurres, Declarations, Pleas, Replications, Rejoynders, or others, which shall be put into any Court hereafter, that the party leave a copy thereof, signed by himselfe and his Clerke, as a true copy, with the Clerk of the other side, the same day the Originall is exhibited.

IX. That the parties themselves, or any friend for them, bee permitted to speake, if they desire it, and that not above two Councillours be heard on oneseide, upon any motion or hearing.

X. That the Sherifffes, Deputies, Bayliffes, and other Officers, have their knowne Residencies, where the people of the Nation may be sure to finde them at all convenient hours, and be dispatched without delay.

XI. That it be lawfull for any man to commence any manner of Suite, though upon a Bond in Chancery.

XII. That the Judges in each Court upon their first sitting aske if there be any Paupers, and dispatch them first; and so likewise at last aske if there be any Paupers that could not get ready sooner, and dispatch them before the Court rise.

XIII. That all Injunctions be directed to the Judges, and all other Officers of the Court whatsoever, as well as Councillors, Attorneys, &c. And that no injunction be granted after Judgement, unlesse the Judgement be obeyed, or upon the other sides putting in unquestionable Security, in case the Chancery determine the Cause against him; and no Injunction to continue above a moneth, unlesse the party that desires it put in unquestionable Security to abide the Judgement of the Court; nor so long neitber, if the party that desires it, doe omit for one whole weeke together, to

goe on, and doe all and every such *Act* and *Acts* as might have been done within the said weeke, in order to bring the Cause unto a bearing.

XIV. That all *Writs* be sent open, directed to all *Sheriffs* in generall, and that what person soever, being to be served with any *Processe*, the *Sheriffe* or his *Deputy*, so soone as he receives the *Processe*, be obliged by himselfe or his *Agent*, within three dayes to repaire unto the dwelling-houe or habitation of such person, upon 5 l. penalty, and not meeting with him, to leave a notification thereof in writing, with some servant of his, but if none to be found, to naile it to the doore or gate, not to be taken downe by any body but the party whom it concernes; and if such person within three dayes appeare not to the *Sheriffe* or his *Deputy*, to be served with such *Processe*, that then the said *Sheriffe* returne such *Processe* by the first or second Post next following, or by some *Messenger* what may bring it securely, and with like speed, upon a penalty of 20 s. a day, for every day which such *Processe* shall be longer delayed, to be levied forthwith of course, by the *Sheriffe* of any of the next adjoyning *Counties*, upon the lands or goods of the said *Sheriffe*, to the behoofe of the party that tooke out the *Processe*, together with his *Charges*, without the least mitigation.

XV. That Execution, one and the selfe same be taken out, for the future; in all cases, and dse serve both against person and goods, in any part of England and Wales, to be directed to all *Sheriffes* in generall.

XVI. That all superfluous Fees unto the Six *Clerks*, *Prothonotaries*, with sundry others, be abolished, and that the under *Clerks* and *Attorneyes*, for engrossing Bills, *Answers*, *Declarations*, *Pleas*, &c. reserve to themselves but one halfe of what they used to take, and the other halfe to be shared between the Six *Clerks*, *Prothonotaries*, and other necessary Officers, or such as shall succeed them.

XVII. That all *Fines* and superfluous charge of *Original Writs*, *Ordinary Writs*, *Writs of Error*, and *Process*, *Fines* and *Recoveries*, *Enrolments*, or others, be from henceforth likewise abolished.

FINIS.